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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,047	07/15/2005	Emiko Kawata	20182.0001USWO	3494
52835 7590 07/19/2010 HAMRE, SCHUMANN, MUELLER & LARSON, P.C. P.O. BOX 2902 MINNEAPOLIS, MN 55402-0902				
EXAMINER				
VENKAT, JYOTHSNA A				
ART UNIT		PAPER NUMBER		
1619				
MAIL DATE		DELIVERY MODE		
07/19/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/518,047

Applicant(s)

KAWATA ET AL.

Examiner

JYOTHNSNA A. VENKAT

Art Unit

1619

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 06 July 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/JYOTHNSNA A VENKAT /
Primary Examiner, Art Unit 1619

Continuation of 3. NOTE: There is no support in the specification for composition not having "cationic polymer made of at least one monomer comprising dimethyl diallyl ammonium chloride". Specification teaches tables 1-4. Tables 1-2 are drawn to instant invention and tables 3-4 are drawn to comparative compositions. Comparative compositions have the cationic polymer Merquat 550 and Merquat 100. To overcome the 102 (b) rejection applicants' amended the claim 1. Applicants' point out support to tables 3-4 to show that they are in possession of claim 1 which has all the components except not having the cationic polymer made of at least one monomer comprising "dimethyl diallyl ammonium chloride". Merquat 550 is copolymer of diallyl dimethyl ammonium chloride with acrylamide where as Merquat 100 is a polymer of dimethyl diallyl ammonium chloride. However there are other cationic polymers which also have diallyldimethylammonium chloride monomer and another monomer. These are polyquaternium 22, polyquaternium 39 and polyquaternium 4. See in detail the final rejection dated 1/5/10. There is no comparison of instant invention with all these cationic polymers which have the monomer "dimethyl diallyl ammonium chloride". Applicants' have not contemplated compositions which has the claimed negative limitation. Therefore amendment to claim 1 is new matter since applicants' are not in possession of first agent that does not include cationic polymer that is made of at least one monomer comprising dimethyl diallyl ammonium chloride

Continuation of 11. does NOT place the application in condition for allowance because: See item 3 (b). The rejection of claims 1-3 under 35 U.S.C. 112, first paragraph is maintained for reasons stated in the final rejection since applicants' are not in possession of the negative limitation of claim 1 composition that does not contain a cationic polymer having as a monomer "dimethyl diallyl ammonium chloride". Specification teaches tables 1-4. Tables 1-2 are drawn to instant invention and tables 3-4 are drawn to comparative compositions. Comparative compositions have the cationic polymer Merquat 550 and Merquat 100. To overcome the 102 (b) rejection applicants' amended the claim 1. Merquat 550 is copolymer of diallyl dimethyl ammonium chloride with acrylamide where as Merquat 100 is a polymer of dimethyl diallyl ammonium chloride. However there are other cationic polymers which also have diallyldimethylammonium chloride monomer and another monomer. These are polyquaternium 22, polyquaternium 39 and polyquaternium 4. See in detail the final rejection dated 1/5/10. There is no comparison of instant invention with all these cationic polymers which have the monomer "dimethyl diallyl ammonium chloride". Applicants' have not contemplated compositions which has the claimed negative limitation. Therefore rejection of claims 112 under 35 U.S.C. 112 for new matter is deemed proper.